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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,862	08/22/2001	Christopher N. Boone	BIOSY/103/US	9127
2543	7590	03/11/2004	EXAMINER	
ALIX YALE & RISTAS LLP 750 MAIN STREET SUITE 1400 HARTFORD, CT 06103			NGUYEN, KIMBERLY D	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 03/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/934,862

Applicant(s)

BOONE ET AL.

Examiner

Kimberly D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Amendment*

1. Acknowledgement is made of Response filed 31 December 2003, which the Applicants elected Group I comprising original claims 1-17.

### *Priority*

2. Acknowledgement is made of this application claiming the benefit under 35 U.S.C. 119(e) of the United States Provisional Patent Application Serial number 60/227,331 filed 23 August 2000.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whalen, Jr. et al. (US 6,029,889; hereinafter "Whalen, Jr.", cited by Applicants) in view of Whynall et al. (US 6,053,030; hereinafter "Whynall").

Re claims 1, 6-8, 11, 13, 15-17: Whalen, Jr. teaches an accountability and identification system (computer 9 in fig. 1), comprising: a memory and information stored in the memory (storing the data in a memory of a computer; col. 3, lines 39+), unique user information (i.e., unique personnel data) stored in the memory (see col. 4, lines 31+); at least one instrument including a receptacle (20 in fig. 3) adapted for momentarily receiving the personal identification to read the user information stored therein, a microprocessor in electrical communication with

the receptacle, the microprocessor having a memory portion for storing operating software and the user information read by the receptacle, and a display (11 in fig. 1) in electrical communication with the microprocessor providing a visual indication of microprocessor, the portions of the user information selected by the operating software. (see fig. 3; col. 6, line 15 through col. 7, line 45).

Although, Whalen, Jr. teaches the unique user information is bar-coded information. Whalen, Jr. fails to specifically teach a touch sensor including a memory.

Whynall teaches a touch sensor (i.e., information button 20) having a memory/information thereon (see abstract; col. 3, lines 30+).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to substitute the touch sensor having information thereon as taught by Whynall to the teachings of Whalen, Jr. in order to eliminate external attachments (such as barcode reader) and the environmental and interference problems (such as barcode labels do not withstand some of the harsh environment and are difficult for reprogramming the barcode; see col. 2, lines 29+; col. 3, lines 40+).

Re claims 2-3: Whynall teaches a touch sensor (20) comprises a memory/information thereon, wherein the memory portion of the microprocessor comprising flash memory and read only memory (see col. 3, lines 64+); is a silicon chip (col. 3, lines 55+).

Re claim 4: Whalen, Jr. teaches the user information includes a user identifier, next of kin, role, and medical information unique to the user (col. 4, lines 30-50).

Re claim 5: Whalen, Jr. fails to specifically teach the receptacle has first and second electrical contacts.

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Whynall teaches the information and identification system, wherein the microprocessor also has a data port, each touch sensor (20) also includes first and second electrical contacts (21 and 23, respectively), and the receptacle has first and second electrical contacts (13 and 15, respectively) in electrical communication with the data port, the first and second electrical contacts of the touch sensor being contacted to the first and second electrical contacts of the receptacle, respectively, to read the information stored in the memory of the touch sensor (see figs. 1-2; col. 3, lines 44+).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to use the receptacle having first and second electrical contacts as taught by Whynall to the teachings of Whalen, Jr. in order to provide mating for communication between the receptacle and the information sensor/button.

Re claim 9: Whynall teaches the operating software includes station, accountability, and sector modes of operation and the operator interface includes a mode button for selecting the mode of operation (see col. 4, lines 16-41).

Re claim 10: Whalen, Jr. teaches options icons/buttons (i.e., the record button 28, GO button 24) on the interactive display (25; see col. 6, lines 23+). It would have been obvious to an artisan of ordinary skill in the art at the invention was made to modify/add new options buttons to the application in order to control/aid the user as desired. Thus, it would have been an obvious expedient to a person of skill in the art to add the claimed buttons, such as WHO, YES, NO, ADD, OUT, etc., to the application software.

Re claim 14: Whalen, Jr. teaches the instrument further includes a radio or cellular component providing communications between the instruments operating in sector mode and the instrument operating in accountability mode (col. 3, lines 30+; col. 6, lines 55+).

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whalen, Jr. as modified by Whynall as applied to claim 1 above, and further in view of Shipley (US 5,633,742). The teachings of Whalen, Jr. as modified by Whynall have been discussed above.

Whalen, Jr. as modified by Whynall fails to specifically teach the instrument includes an infrared port to control the transmission of data through the infrared port.

Shipley teaches a data communication system using a conventional serial or parallel port, and the benefit of using infrared port for data communication (i.e., infrared port does not require wire or fiber optic connections; personal computer can be moved around while maintaining connection with other computer devices through an infrared link; and infrared link would not materially effect the power consumption of the portable device).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to upgrade the well known infrared data communication as taught by Shipley to the teachings of Whalen, Jr. as modified by Whynall in order to provide wireless and low-power-consumption data communication to the instant information and identification system.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lewis (US 6,543,444) teaches system and method for air time remaining calculations

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in a self-contained breathing apparatus. Kung et al. (US 6,570,583) teaches Zoom-enabled handheld device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402. The examiner can normally be reached on Monday-Friday 7:30-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KDN

4 March 2004



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